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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,215	06/05/2001	Noel Schnake	1468	9528

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EXAMINER

PEREZ, JULIO R

ART UNIT PAPER NUMBER

2681

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/874,215	<b>Applicant(s)</b> SCHNAKE ET AL.	
	<b>Examiner</b> Julio R. Perez	<b>Art Unit</b> 2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. In view of the appeal brief filed on 05/06/05, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) Request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Response to Arguments***

2. Applicant's arguments, see Appeal Brief, filed on 05/06/05, with respect to claims 1-29 have been fully considered and are persuasive, the final rejection of claims 1-29 has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5-23, 25, 27, 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Alperovich et al. (hereinafter Alperovich) (6,119,014).

Regarding claim 1, Alperovich discloses a method of managing message-presentation in a subscriber station, the method comprising: sending to the subscriber station, via a communications network, a message and a time-based schedule for presentation of the message (col. 4, lines 7-28, a message is transmitted to a designated subscriber number), whereby the subscriber station responsively presents the message according to the time-based schedule wherein the schedule includes a start-time value that indicates when to start presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34, the receiving subscriber receives the message and may display at a later time).

Regarding claim 3, Alperovich discloses a method of managing message-presentation in a subscriber station, the method comprising: sending to the subscriber station, via a communications network, a message and a schedule for presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34, whereby the subscriber station stores the message and the schedule and is programmed to present the message according to the schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34); and thereafter sending to the subscriber station, via the communications network, a schedule- change order defining a change to the schedule for presentation of the message, wherein the schedule includes a start-time value that indicates when to start presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 5, Alperovich discloses, wherein the change to the schedule comprises cancellation of the schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 6, Alperovich discloses, further comprising the subscriber station responding to the schedule-change order by deleting the schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 7, Alperovich discloses, wherein the schedule-change order includes a substitute-schedule, and wherein the change to the schedule comprises replacement of the schedule with the substitute-schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 8, Alperovich discloses, further comprising the subscriber station responding to the schedule-change order by deleting the schedule and storing the substitute-schedule, whereby the subscriber station is then programmed to present the message according to the substitute-schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 9, Alperovich discloses, wherein the schedule-change order comprises a cancellation-order defining an instruction to cancel the schedule and a schedule-order defining the substitute-schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 10, Alperovich discloses, further comprising: the subscriber station responding to the cancellation-order by deleting the schedule ((col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34); and the subscriber station responding

to the schedule-order by storing the substitute-schedule, whereby the subscriber station is then programmed to present the message according to the substitute schedule ((col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 11, Alperovich discloses, wherein the schedule defines a scheduling parameter, and the change to the schedule comprises a change to the scheduling parameter (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 12, Alperovich discloses, wherein the scheduling parameter comprises a date/time for presentation of the message ((col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 13, Alperovich discloses, wherein the scheduling parameter comprises a date/time to start presentation of the message ((col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 14, Alperovich discloses, wherein the scheduling parameter comprises a date/time to stop presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 15, Alperovich discloses, wherein the scheduling parameter comprises a duration for presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 16, Alperovich discloses, wherein the scheduling parameter comprises a number of times to present the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 17, Alperovich discloses, wherein the scheduling parameter m comprises a frequency of presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 18, Alperovich discloses, wherein the communications network comprises an air interface communicatively coupling the subscriber station with a base station (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 19, Alperovich discloses, further comprising: sending to the subscriber station, via the communications network, a reporting request defining a request for data concerning presentation of at least one message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34); and receiving from the subscriber station a report defining data concerning presentation of at least one message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 20, Alperovich discloses, wherein the reporting request defines a network address to which the subscriber station should send the report, and wherein receiving the report comprises receiving the report at the network address ((col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 21, Alperovich discloses, a method for managing message-presentation in subscriber station, the method comprising: receiving into the subscriber station, from a communications network, a message and a schedule for presentation of the message (col. 4, lines 7-28); storing the message and schedule in the subscriber station, wherein the subscriber station becomes programmed to present the message according to the schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15,

Art Unit: 2681

28-34, the receiving subscriber receives the message and may display at a later time); thereafter receiving into the subscriber station, from a communications network, a schedule-change order defining a change to the schedule for presentation of the message (col. 4, ,lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34, the receiving subscriber receives the message and may display at a later time); and the subscriber station implementing the change and thereby becoming programmed to present the message according to a modified schedule, wherein the schedule includes a start-time value that indicates when to start presentation of the message (col. 4, ,lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34, the receiving subscriber receives the message and may display at a later time)..

Regarding claim 22, Alperovich discloses, wherein the schedule-change order comprises a cancellation-order defining an instruction to cancel the schedule and a schedule-order defining the modified schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 23, Alperovich discloses, wherein implementing the change comprises: deleting the schedule; and storing the modified schedule (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 25, Alperovich discloses, wherein the request defines a network address of the remote entity (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

Regarding claim 27, Alperovich discloses, a subscriber station comprising: a processor (col. 4, lines 7-28); a data storage medium (col. 4, lines 7-28); a



Art Unit: 2681

communications interface (col. 4, lines 7-28); a message stored in the data storage medium (col. 4, lines 7-28); a message-presentation schedule stored in the data storage medium and defining a schedule for presentation of the message ((col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34); a presentation-program stored in the data storage medium and executable by the processor to present the message according to the schedule for presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34); and a management-program stored in the data storage medium and executable by the processor, upon receipt of a schedule-change order via the communications interface, to alter the message-presentation schedule, wherein the schedule includes a start-time value that indicates when to start presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34), the receiving subscriber receives the message and may display at a later time).).

Regarding claim 29, Alperovich discloses, wherein the schedule-change order comprises a cancel-order defining an instruction to cancel the schedule for presentation of the message and a schedule-order defining a substitute-schedule for presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34), and wherein: the management-program is executable by the processor, in response to the cancel-order, to cancel the schedule for presentation of the message (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34); and the management-program is executable by the processor, in response to the schedule-order, to store the substitute-

schedule in the data storage medium (col. 4, lines 7-65; col. 5, lines 1-7, 36-49; col. 6, lines 4-15, 28-34).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4, 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich in view of Nishiyama et al. (hereinafter Nishiyama) (6,725,460).

Regarding claims 2,4, 26, Alperovich does not explicitly disclose, wherein the message comprises an advertisement.

Nishiyama teaches a system for delivering contents that includes an advertisement-delivery schedule (col. 26, lines 40-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to improve upon the system as taught by Nishiyama by implementing the system with capabilities of sending messages that include advertisements because it would provide the user with access to promotional services within the subscriber's locations.

7. Claims 24, 28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich in view of Marsh et al. (hereinafter Marsh) (5,848,397).

Regarding claims 24, 28, Alperovich does not explicitly disclose maintaining message-presentation statistics in the subscriber station; receiving into the subscriber

station a request for the message-presentation statistics; and the subscriber station transmitting the message-presentation statistics to a remote entity.

Marsh teaches a system maintaining statistics regarding advertisements presented to the user (col. 14, lines 66-67-col. 15, lines 1-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to improve upon the system as taught by Marsh by implementing the system with capabilities of keeping statistics of messages displayed in order to keep track of the frequency of presentation of the messages.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio R. Perez whose telephone number is (571) 272-7846. The examiner can normally be reached on 7:00 - 4:00 PM.

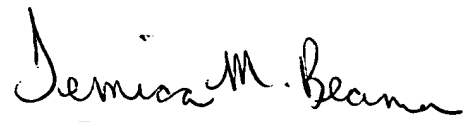
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272- 4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/874,215  
Art Unit: 2681

Page 11

  
Julio Perez  
1/17/06

  
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1/23/06